

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

THOMAS EDWARD BARNARD,)	
)	
Plaintiff,)	
)	Case No. 18-cv-431-CVE-FHM
v.)	
)	Removed from the District Court
BANK OF AMERICA, N.A., <i>et al.</i>,)	for Tulsa County, OK
)	
Defendants.)	
)	

**DEFENDANT BANK OF AMERICA, N.A.,’S MOTION TO DISMISS
AMENDED COUNTERCLAIM AND THIRD-PARTY PETITION**

Defendant Bank of America, N.A. (“Bank of America” or the “Bank”), by and through its undersigned counsel and pursuant to Federal Rule of Civil Procedure 12(b)(6), hereby respectfully moves to dismiss the Amended Counterclaim and Third-Party Petition filed by Plaintiff Thomas Edward Barnard as to Bank of America for failure to state a claim upon which relief can be granted. The grounds for this motion are more fully set forth in the accompanying Memorandum of Law in Support of Motion to Dismiss Amended Counterclaim and Third-Party Petition, which is incorporated by reference as though restated fully herein.

WHEREFORE, Defendant Bank of America, N.A., respectfully requests this Court to issue an order dismissing the Amended Counterclaim and Third-Party Petition with prejudice as to Bank of America for failure to state claim upon which relief can be granted pursuant to Federal Rules of Civil Procedure 12(b)(6).

[Signatures on following page]

Dated: August 23, 2018

Respectfully submitted,

/s/ Brian Rayment

Brian J. Rayment (Fed. Bar #7441)

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Counsel for Defendant Bank of America, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on August 22, 2018, a copy of the foregoing Defendant Bank of America, N.A.'s Motion to Dismiss, Memorandum in Support, Exhibits, and Proposed Order were filed and served via the Court's CM/ECF system on all counsel of record and via first class mail on the following counsel who have not yet appeared on CM/ECF:

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/s/ Brian J. Rayment
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